

TOWN OF PARMA
ZONING BOARD OF APPEALS
November 17, 2016

Members Present: Dan Melville
Veronica Robillard
Jim Zollweg

Members Excused: Stephen Shelley
Tim Thomas

Others Present: Dennis Scibetta

Public Present: Dave Harris, Steve Hickey, Todd Edgecombe, Stacy Edgecombe, Joseph D'Angelo,
Judy Kampf

The meeting was called to Order by Chairperson Robillard at 7:00 p.m. Chairperson Robillard explained the function of the ZBOA and the decision-making process. She also explained that this is a five member board with three members present at tonight's meeting. A quorum of three is required to pass a motion.

TABLED FROM THE OCTOBER 20, 2016 MEETING

1. RIDGE ROAD 5247, LLC – 5247 RIDGE ROAD WEST

The application of Ridge Road 5247, LLC, owner, for an area variance at 5247 Ridge Road West. The applicant is proposing to add individual business names to a plaza sign and is requesting relief from Town Zoning Article 14, subsection 165-113-B.5 which states in part that such sign shall not contain the names of businesses. This property is currently zoned General Commercial (GC).

Chairperson Robillard stated this was tabled from the October meeting. Dennis Scibetta reported that this application is being officially withdrawn by the applicant. The applicant does not need a variance for the additional signage. This was discovered through a search of all other businesses with directory signs. After looking at others and the Dunkin Donuts sign it was found that this variance was not needed. He further noted that they will be going to the Town Board to seek a refund for the applicant.

After discussion it was determined that this is a non-action item.

NEW BUSINESS

2. TODD & STACY EDGECOMBE – 28 MOUL ROAD

The application of Todd and Stacey Edgecombe, owners, for 3 area variances at 28 Moul Road. The applicants are proposing to construct a 2,480 square feet addition with a 14' wall height and a front setback of 20.8 feet, to a pre-existing 3,225 square feet storage building. The property also has an existing 64 square feet shed which would bring the total area of accessory structures to 5,769 square feet. They are requesting relief from 1) Town Zoning Article X, subsection 165-82.C.2 which states in part that the wall height shall not exceed 12 feet, 2) Town Zoning Article V, subsection 165-32.E.1, Schedule 1, which states that the front setback is to be 75 feet and 3) Town Zoning Article 5, subsection 165-32.C.2 which limits the total area of accessory structures to 1,500 square feet. This property is currently zoned Rural Residential (RR).

Board Discussion: Dennis Scibetta reported that notifications were in order, the request was returned by Monroe County as a matter of local determination, and that this is a Type II action under SEQR and no further review is required. There were no letters in the file.

Dennis Scibetta reported that after reviewing the application and speaking with legal counsel this building is considered a pre-existing legal building because it was built to the standards as required before the code changed in 1998. This building was built in 1992. That reason allows the Board to hear the application. The

applicants went to the Planning Board where they recommended this be heard by this Board. If this had been a pre-existing building that required a variance to exist before, then it would have been considered a pre-existing non-conforming use and that could not have been expanded.

Chairperson Robillard clarified that there is no house on the property. Mr. Scibetta stated that is true but when the building was built in 1992 that was not a requirement. She further clarified that the request is for wall height, setback and square footage. Mr. Scibetta explained that this is not an additional building; this is an expansion to the current building. The smaller shed on the property will be going away. If this variance is approved then the building will be considered a non-conforming building.

Stacey Edgecombe explained that there will be 16 pieces of equipment stored in the building, the list of equipment was provided to the Board. This will keep the property looking presentable and also get the equipment inside out of the weather. The 14' wall height is needed to accommodate the equipment being stored. This building will be for storage only. Currently some of the items sit outside or are at current job sites but with the weather turning those will have to come back from the sites for storage. It is hard to keep the equipment maintained outside.

Chairperson Robillard asked if there was going to be trees removed. Mr. Edgecombe stated that there would be no trees removed in fact he is adding some trees as a buffer to the property. Jim Zollweg asked if clients come to the property. Applicant said no and he also stated that there are no lights. The equipment is not used on this property. Dan Melville asked if there would be a concrete floor to store the vehicles. The applicant stated that the current building has a concrete floor and if he is required to put in a concrete floor he would.

Public Comment:

Joseph D'Angelo, 40 Moul Road, stated that he at one point owned this property and is concerned that this commercial business is being operated in a residential area. He has concerns with noise and dust when the equipment is coming and going. He is also concerned about the environmental aspect specifically with regards to fuel and oil when the equipment is being maintained. He feels the road is getting chewed up when the tractor trailers are loading and unloading vehicles. He stated that this is a lot of equipment for a residential area. There are approximately 10 houses that back up to this property and he would prefer that this business be in a commercial area.

Dan Harris, 16 Moul Road, stated that this building backs up to his property line. He also has environmental concerns with the changing and storage of motor oil on the property and the road getting ruined from the use. He is concerned with the view from his yard. Occasionally tractor trailers are pulling up in front of the driveway because there is nowhere for them to pull off. He is concerned that when Mr. Christian originally built this building he never notified any of the neighbors at that time. Dennis Scibetta stated that Mr. Christian did not have to notify anyone when it was built, there was a building permit issued and the building was built to code at the time it was built. He is concerned that there will be more equipment coming onto the property.

Todd Edgecombe responded to the concern about the tractor trailers unloading in the road. He stated that he has recently added a second driveway which branches off of the original driveway so a tractor trailer can now drive in and turn around. He stated that he leaves early in the morning and comes home late at night. There is no one coming to the property at noon time. Only he and his father have the codes to the building and locks, it is a two person operation. Chairperson Robillard asked if he builds homes. He stated not mainly homes; mostly churches, schools and fire departments. Chairperson Robillard asked how big the property is. Stacy Edgecombe stated it is approximately 3.5 acres. The applicant stated that he will not be purchasing any other equipment.

Chairperson Robillard asked about the accessory structure at his residence. Mr. Edgecombe stated that is full with cars and equipment. There are two pieces of equipment stored outside and three more stored inside at his residence. Those pieces of equipment were not included on the list provided to the Board for the new structure.

There was a concern about children coming onto the property and getting hurt on the equipment. Mr. Scibetta explained that that would be trespassing on private property if they were and that is not something that is germane to this application. The concern is taken but the focus has to stay on the request.

Public Hearing: Closed

Jim Zollweg wanted to clarify what the Board is charged with doing. This Board does not make a decision about anything but whether this structure may be built or not. We are not able to settle any conflict among anyone about the overall character of this application. We are not being asked to either approve or remove equipment from this property. The only thing is whether we approve the building of a structure. The discussion has gone beyond whether a variance to allow this structure to be put in place or not. A lot of that discussion or issues are not part of what we are doing tonight. Chairperson Robillard read the criteria used to balance if this is approved or not.

The Board took a five minute recess so the Board and applicants can think about all of the information given so far.

Chairperson Robillard asked the applicant if they would like to continue forward towards a motion or would they prefer that there be additional members of the Board present. Dennis Scibetta explained that with only three members sitting tonight the vote would have to be unanimous or it is a denial.

Chairperson Robillard polled the Board about their view on moving forward tonight. Jim Zollweg felt that he had enough information to make a motion tonight but he is also not opposed to tabling this matter. Dan Melville was also ok with tabling the matter and feels that if the applicant is asking for this to be tabled, then the Board should respect their wishes. Mr. D'Angelo wanted to know how the other Board members would know what is going on, or will there be a whole new hearing. Chairperson Robillard stated that the information will be in the minutes. If they have any further questions, they could ask at the next meeting.

Stacy Edgecombe stated that with some of the concerns brought up tonight they would like to table this so that there will be more members of the Board present and it would give them a change to clear up some of the concerns.

After discussion, a **Motion** was made by Jim Zollweg to **table** the application of Todd and Stacey Edgecombe, owners, for 3 area variances at 28 Moul Road to the December 2016 meeting without prejudice. This will allow the applicant time to prepare further supporting information and will allow other members of the Board to consider the application and add further input.

Seconded by Dan Melville. **Motion carried to table (3-0)** (Ayes: Dan Melville, Veronica Robillard, Jim Zollweg; **Excused**: Stephen Shelley, Tim Thomas).

3. STEVE & MICHELLE HICKEY – 451 HILL ROAD

The application of Steve and Michelle Hickey, owners, for an area variance at 451 Hill Road. The applicants are proposing to build a 24' x 24' garage addition with a front setback of 51.1 feet and are requesting relief from Town Zoning Article V, subsection 165-31.E.1, Schedule 1 which states that the front setback shall be 60 feet. This property is currently zoned Agricultural/Conservation (AC).

Steve Hickey, owner, explained that they are looking to put a garage in at the front of the house. In 1988 or 1989 the garage was converted to living space to accommodate the growing family. There would be a firewall built between the garage and house and this will be used for vehicle storage only. Chairperson Robillard asked why 24 x 24 feet, which is not standard for a garage. Mr. Hickey stated that was the size the original garage was before. Dennis Scibetta reported that 24' x 24' is probably the new norm and some are even built bigger. Chairperson Robillard asked whose barn is in the SW corner of the property. The applicant stated that it is his.

Board Discussion: Dennis Scibetta reported that notifications were in order, the request was returned by Monroe County as a matter of local determination, and that this is a Type II action under SEQR and no further review is required. No letters in the file.

Public Comment:
Public Hearing: Closed

Dennis Scibetta stated that per code, they do need a garage and this actually brings the property more into compliance.

After discussion, a **Motion** was made by Jim Zollweg to **approve** the application of Steve and Michelle Hickey, owners, for an area variance at 451 Hill Road. The applicants are proposing to build a 24' x 24' standard size garage addition with a front setback of 51.1 feet and they need relief from Town Zoning Article V, subsection 165-31.E.1, Schedule 1 which states that the front setback shall be 60 feet. This property is currently zoned Agricultural/Conservation (AC).

In making this motion I considered the balancing test and its components:

- The benefit cannot be achieved by other means feasible to the applicant. I don't believe there are any other reasonable solutions to this problem. The applicant does need a garage and storage for vehicles and this is the most appropriate location on the property.
- There will be no undesirable change in neighborhood character or to nearby properties. Even though it violates the setback, it will not be further into the setback than the neighboring property so it will not be noticeable.
- The request is not substantial.
- There will be no adverse physical or environmental effects.
- The alleged difficulty is self-created; however, using the balancing test, the benefit to the applicant outweighs any detriment to the health, safety and welfare of the community.

Seconded by Dan Melville. **Motion carried to approve (3-0)** (Ayes: Dan Melville, Veronica Robillard, Jim Zollweg; **Excused:** Stephen Shelley, Tim Thomas).

SPECIAL PERMIT RENEWAL

4. ANNA RICOTTA – 5064 RIDGE ROAD WEST

The application of Anna Ricotta, owner, to renew a Special Permit at 5064 Ridge Road West, to display and sales of 71 vehicles as stated in the previous Permit. This property is currently zoned Highway Commercial (HC) which allows this use with a Special Permit.

There was discussion among the Board surrounding the renewal dates of this application; the information provided to the Board was not the most recent information in the file. Dennis Scibetta explained that the applicant came in on his own to have this permit renewed and has worked with the Town on this.

Dennis Scibetta reported that he did a fire and safety inspection on this property and there were no issues and no complaints on file.

A **Motion** was made by Jim Zollweg to **approve** the application of Anna Ricotta, owner, for a Special Permit to display and sell automobiles at 5064 Ridge Road West with the same following conditions as the previous renewal:

1. This special permit allows 71 display spaces as stated in the previous permit issued February 17, 2011.
2. As stated in a previous permit, hours of operation to be 10 am to 6 pm, Monday through Friday; 10 am and 3 pm, Saturday; and a minor change in hours to 12 pm to 3 pm, Sunday.
3. That the owner assures that vehicles that are displayed or stored do not encroach on the right-of-way of Ridge Road.

4. There will be an inspection performed prior to the issuance of this Special Permit by the Zoning Enforcement Officer.

5. The period of the special permit shall be for two years, to be renewed September 2018.

This property is currently zoned Highway Commercial (HC) which allows this use with a Special Permit. Seconded by Dan Melville. **Motion carried to approve (3-0)** (Ayes: Dan Melville, Veronica Robillard, Jim Zollweg; **Excused:** Stephen Shelley, Tim Thomas).

MINUTES OF OCTOBER 20, 2016

The ZBOA minutes of October 20, 2016 were reviewed. **Motion** was made by Jim Zollweg to **approve** the October 20, 2016 minutes as presented. Seconded by Dan Melville. **Motion carried to approve (3-0)** (Ayes: Dan Melville, Veronica Robillard, Jim Zollweg; **Excused:** Stephen Shelley, Tim Thomas).

ADJOURNMENT

There being no further business, a **Motion** was made by Jim Zollweg, seconded by Dan Melville to adjourn the meeting at 8:19 p.m. **Motion carried to approve (3-0)** (Ayes: Dan Melville, Veronica Robillard, Jim Zollweg; **Excused:** Stephen Shelley, Tim Thomas).

Respectfully submitted,

Carrie Webster
Recording Secretary